**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD**

**HON'BLE Mr. JUSTICE R. SUBHASH REDDY**

**Writ Petition No.22976 of 2000**

***WEDNESDAY, THE TWENTY EIGTH DAY OF JUNE TWO THOUSAND AND SEVEN***

**Between:**

Smt M.V. Sita Mahalaxmi, W/o. M.V. Sitarama Rao, aged about 67 years, OCC: Household, R/o. Block No.4, Flat No.1, HIG (Phase-I) Baghlingampally, Hyderabad – 500 044.

… Petitioner

And

The Executive Engineer (Hg), South Division, A.P. Housing Board, 13th Floor, Gaganvihar, M.J. Road, Hyderabad, and another.

… Respondents

## Order:

Petitioner, the owner of a flat bearing No.B4/F1, Phase-I HIG, Baghlingampally, Hyderabad seeks a Writ of Mandamus to declare the action of the respondents in taking steps to demolish the extension of two balconies undertaken by her as arbitrary and illegal.

2. Andhra Pradesh Housing Board, a body constituted under the Andhra Pradesh Housing Board Act, had constructed apartments in Baghlingampally, Hyderabad. In one of such apartments, Flat No.B4/F1 in Phase-I HIG was originally sold to one Mr. G. Shekar. Though sale deed was executed in his favour, however, the same was with a condition that the land appurtenant to the flat should remain and continue to be the absolute property of the vendor, i.e. A.P.H.B. The petitioner purchased the said flat from the original allottee
Mr. G. Shekar.

3. The case of the petitioner is that she has made some constructions in the two balconies so as to bring them in conformity with Vaasthu and the same were taken up within the compound wall. Her grievance is that though the property has been sold in favour of the original allottee, and she has purchased the same form him, respondents are interfering with the constructions.

4. Respondents have filed counter affidavit stating that the sale made in favour of the original allottee is a conditional one and the land appurtenant to the flat remains with the Board. It is stated that the Board is the absolute owner of the property. It is further stated that the petitioner raised R.C.C. columns upto the roof level of the ground floor without obtaining permission from the Board.

5. As much as the petitioner is not the absolute owner of the property in question, she cannot raise any structures in the land of the Board. As the sale made in favour of the original allottee is a conditional one, and is not absolute, respondents have control over the land and can prohibit unauthorized constructions therein. The plea of the petitioner that she is raising some structures in the balconies has

been denied by the respondents in the counter affidavit and it is stated that petitioner raised R.C.C. columns upto the roof level of the ground floor without obtaining permission from the Board. Hence, I do not find any illegality in the action of the respondents in restraining the petitioner from making constructions in the land belonging to the Board.

6. The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

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**JUSTICE R. SUBHASH REDDY.**

June 28, 2007
**MRR**